

PROPOSED DECISION RECORD
for
HIGHWAY 395 FENCE
EA OR-025-01-03

INTRODUCTION: Following a 30-day comment period on the Highway 395 Fence Environmental Assessment (EA) OR-025-01-03, the Burns District, Three Rivers Resource Area, of the Bureau of Land Management is issuing a proposed decision for construction of the fence. The proposed decision is to implement the proposed action of the EA, with no modification. The proposed fence is designed to provide for public safety along 3.5 miles of U.S. Highway 395 south of Riley, Oregon.

DECISION: Having considered a full range of alternatives and associated impacts and in accordance with 43 CFR 4160.1, my proposed decision is to implement the proposed action for construction of the Highway 395 fence on the Three Rivers Resource Area, Burns District, as described in the Highway 395 Fence EA.

This action would improve public safety along 3.5 miles of U.S. Highway 395 by controlling livestock movement onto the highway when they are authorized in the South Pasture of the Cluster Allotment.

Rationale for Decision: I have selected the proposed action for the following reasons:

It provides for public safety.

It promotes and sustains healthy ecosystems.

Initial construction costs of the fence will be borne by the existing permittee. Additionally, the project will be maintained at no additional Federal cost. Maintenance responsibilities will be assigned through a cooperative agreement to the grazing permittee in the allotment.

It is in compliance with Federal laws that mandate the management of public land resources (Federal Land Policy and Management Act of 1976).

It is in conformance with the objectives stated in the August 12, 1997 Standards for Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington.

This project is in conformance with Section 7(a)1 of the Endangered Species Act.

It is in conformance with objectives and land use allocations in the 1992 Three Rivers Resource Management Plan and Environmental Impact Statement.

The combined effects of fence location and screening by vegetation and topography will reduce

the degree to which the fence is noticeable.

It includes coordination with local government, tribal entities, private landowners, and other State and Federal agencies.

Public involvement consisted of direct mailing to six individuals, organizations, tribes, and agencies, and notification in the local newspaper. The EA and Finding of No Significant Impact (FONSI) were also posted for public viewing on the Burns District internet site during the comment period. I did not receive any comments during the FONSI/EA review period.

The decision does not result in any undue or unnecessary environmental degradation.

I have also considered the following alternative to the proposed action:

1. No fence construction. This alternative does not provide for public safety along 3.5 miles of U.S. Highway 395. Currently, livestock have free access to the highway while they are authorized within the South Pasture of the Cluster Allotment. Under the no fence construction alternative, livestock would continue to have access to the highway and present a public safety problem.

In accordance with 43 CFR 4160.2, the permittees or other interested public may protest those portions of the proposed decision described above under 43 CFR 4160.1 in writing to the Three Rivers Resource Area Field Manager within 15 days from receipt of this proposed decision at this address:

Bureau of Land Management
Burns District Office
HC 74-12533 Hwy 20 W
Hines, Oregon 97738

Any protest should specify the reasons clearly and concisely why the proposed decision is in error.

In the absence of a protest within 15 days from receipt of this proposed decision, this proposed decision shall constitute my final grazing management decision, without further notice in accordance with 43 CFR 4160.3(a). Should this proposed decision become my final grazing management decision and you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470(a) and 43 CFR 4160.4, your appeal must be filed within 45 days after receipt of the proposed decision, as provided for in 43 CFR 4160.3(a) and described above, in writing, at the office of the Field Manager, at the above address. A notice of appeal filed before the proposed decision becomes final will be treated as a protest. An appeal should specify the reasons, clearly and concisely as to why you consider this grazing management decision to be in error.

If you wish to file a petition, pursuant to regulation 43 CFR 4.21, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must

accompany your notice of appeal. A petition for stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether or not the public interest favors granting the stay.

Rudolph J. Hefter (Signature on file) for:

March 7, 2001

Craig M. Hansen
Three Rivers Resource Area Field Manager

Date